

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Shirley Lindsay,

Plaintiff,

v.

3161 Los Feliz Blvd., LLC, a
California Limited Liability
Company;
Aram Tsolakyan;
Gohar Grigorian; and Does 1-10,
Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act**

Plaintiff Shirley Lindsay complains of Defendants 3161 Los Feliz Blvd., LLC, a California Limited Liability Company; Aram Tsolakyan; Gohar Grigorian; and Does 1-10 ("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. She suffers from arthritis (osteoarthritis of multiple joints; spinal stenosis of the lumbar spine; and essential hypertension) of her hands, knees, and hips. She uses both a cane and wheelchair for mobility.

1 2. Defendant 3161 Los Feliz Blvd., LLC owned the real property located
2 at or about 3161 Los Feliz Blvd., Los Angeles, California, in October 2016.

3 3. Defendant 3161 Los Feliz Blvd., LLC owns the real property located at
4 or about 3161 Los Feliz Blvd., Los Angeles, California, currently.

5 4. Defendant Aram Tsolakyan owned the Adam Tsolakyan, DDS located
6 at or about 3161 Los Feliz Blvd., Los Angeles, California, in October 2016.

7 5. Defendant Aram Tsolakyan owns the Adam Tsolakyan, DDS located at
8 or about 3161 Los Feliz Blvd., Los Angeles, California, currently.

9 6. Defendant Gohar Grigorian owned the Adam Tsolakyan, DDS located
10 at or about 3161 Los Feliz Blvd., Los Angeles, California, in October 2016.

11 7. Defendant Gohar Grigorian owns the Adam Tsolakyan, DDS (“Dental
12 Office”) located at or about 3161 Los Feliz Blvd., Los Angeles, California,
13 currently.

14 8. Plaintiff does not know the true names of Defendants, their business
15 capacities, their ownership connection to the property and business, or their
16 relative responsibilities in causing the access violations herein complained of,
17 and alleges a joint venture and common enterprise by all such Defendants.
18 Plaintiff is informed and believes that each of the Defendants herein,
19 including Does 1 through 10, inclusive, is responsible in some capacity for the
20 events herein alleged, or is a necessary party for obtaining appropriate relief.
21 Plaintiff will seek leave to amend when the true names, capacities,
22 connections, and responsibilities of the Defendants and Does 1 through 10,
23 inclusive, are ascertained.

24
25 **JURISDICTION & VENUE:**

26 9. This Court has subject matter jurisdiction over this action pursuant to
27 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
28 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

1 10. Pursuant to supplemental jurisdiction, an attendant and related cause
2 of action, arising from the same nucleus of operative facts and arising out of
3 the same transactions, is also brought under California's Unruh Civil Rights
4 Act, which act expressly incorporates the Americans with Disabilities Act.

5 11. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
6 founded on the fact that the real property which is the subject of this action is
7 located in this district and that Plaintiff's cause of action arose in this district.

8
9 **FACTUAL ALLEGATIONS:**

10 12. The Plaintiff went to the Dental Office in October 2016 for a dental
11 checkup.

12 13. The Dental Office is a facility open to the public, a place of public
13 accommodation, and a business establishment.

14 14. Parking spaces are one of the facilities, privileges and advantages
15 offered by defendants to patrons of the Dental Office.

16 15. However, there were no parking spaces marked and reserved for
17 persons with disabilities during any of plaintiff's visits.

18 16. Currently, there is not a single parking space marked and reserved for
19 persons with disabilities.

20 17. On information and belief, defendants used to have an accessible
21 parking space. Unfortunately, the defendants have allowed the parking space
22 to fade beyond recognition or have paved over it.

23 18. Defendants do not maintain their parking lot and have no plan or policy
24 in place to maintain their parking spaces reserved for persons with disabilities.

25 19. Plaintiff visited the Dental Office in October 2016.

26 20. These barriers caused Plaintiff difficulty and frustration.

27 21. Plaintiff would like to return and patronize the Dental Office but will be
28 deterred from visiting until the defendants cure the violations.

1 22. The defendants have failed to maintain in working and useable
2 conditions those features required to provide ready access to persons with
3 disabilities.

4 23. The violations identified above are easily removed without much
5 difficulty or expense. They are the types of barriers identified by the
6 Department of Justice as presumably readily achievable to remove and, in fact,
7 these barriers are readily achievable to remove. Moreover, there are numerous
8 alternative accommodations that could be made to provide a greater level of
9 access if complete removal were not achievable.

10 24. For example, there are numerous paint/stripe companies that will come
11 and stripe a parking stall and access aisle and install proper signage on rapid
12 notice, with very modest expense, sometimes as low as \$300 in fully
13 compliance with federal and state access standards.

14 25. Plaintiff is and has been deterred from returning and patronizing the
15 Dental Office because of her knowledge of the illegal barriers that exist.
16 Plaintiff will, nonetheless, return to assess ongoing compliance with the ADA
17 and will return to patronize the Dental Office as a customer once the barriers
18 are removed.

19 26. Given the obvious and blatant violation, the plaintiff alleges, on
20 information and belief, that there are other violations and barriers on the site
21 that relate to her disability. Plaintiff will amend the complaint, to provide
22 proper notice regarding the scope of this lawsuit, once she conducts a site
23 inspection. However, please be on notice that the plaintiff seeks to have all
24 barriers related to her disability remedied. See *Doran v. 7-11*, 524 F.3d 1034
25 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site,
26 he can sue to have all barriers that relate to his disability removed regardless of
27 whether he personally encountered them).

28 27. Additionally, on information and belief, the plaintiff alleges that the

1 failure to remove these barriers was intentional because: (1) these particular
 2 barriers are intuitive and obvious; (2) the defendants exercised control and
 3 dominion over the conditions at this location and, therefore, the lack of
 4 accessible facilities was not an “accident” because had the defendants
 5 intended any other configuration, they had the means and ability to make the
 6 change.

7
 8 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
 9 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
 10 Defendants.) (42 U.S.C. section 12101, et seq.)

11 28. Plaintiff re-pleads and incorporates by reference, as if fully set forth
 12 again herein, the allegations contained in all prior paragraphs of this
 13 complaint.

14 29. Under the ADA, it is an act of discrimination to fail to ensure that the
 15 privileges, advantages, accommodations, facilities, goods and services of any
 16 place of public accommodation is offered on a full and equal basis by anyone
 17 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.
 18 § 12182(a). Discrimination is defined, inter alia, as follows:

- 19 a. A failure to make reasonable modifications in policies, practices,
 20 or procedures, when such modifications are necessary to afford
 21 goods, services, facilities, privileges, advantages, or
 22 accommodations to individuals with disabilities, unless the
 23 accommodation would work a fundamental alteration of those
 24 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 25 b. A failure to remove architectural barriers where such removal is
 26 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
 27 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,
 28 Appendix “D.”

1 c. A failure to make alterations in such a manner that, to the
2 maximum extent feasible, the altered portions of the facility are
3 readily accessible to and usable by individuals with disabilities,
4 including individuals who use wheelchairs or to ensure that, to the
5 maximum extent feasible, the path of travel to the altered area and
6 the bathrooms, telephones, and drinking fountains serving the
7 altered area, are readily accessible to and usable by individuals
8 with disabilities. 42 U.S.C. § 12183(a)(2).

9 30. Any business that provides parking spaces must provide a sufficient
10 number of handicap parking spaces. 1991 Standards § 4.1.2(5). 2010
11 Standards § 208. The required minimum number of handicap parking spaces
12 is dependent on the total number of parking spaces available. *Id.* According to
13 the 1991 Standards, if a parking lot has 1-25 spaces, it must have at least 1
14 accessible parking space. 1991 Standards § 4.1.2(5)(a). And 1 in every 8 of
15 those accessible parking spaces, but not less than 1, must be a “van” accessible
16 parking space, *i.e.*, having an eight foot access aisle. 1991 Standards §
17 4.1.2(5)(b). Under the 2010 Standards, a parking lot with 1-25 spaces must
18 have at least 1 accessible space and 1 of them must be van accessible. 2010
19 Standards § 208.2 & § 208.2.4.

20 31. Here, the failure to provide accessible parking spaces is a violation of the
21 ADA.

22 32. A public accommodation must maintain in operable working condition
23 those features of its facilities and equipment that are required to be readily
24 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

25 33. Here, the failure to ensure that the accessible facilities were available
26 and ready to be used by the plaintiff is a violation of the law.

27 34. Given its location and options, plaintiff will continue to desire to
28 patronize the Dental Office but she has been and will continue to be

1 discriminated against due to the lack of accessible facilities and, therefore,
2 seeks injunctive relief to remove the barriers.

3
4 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
5 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.
6 Code § 51-53.)

7 35. Plaintiff re-pleads and incorporates by reference, as if fully set forth
8 again herein, the allegations contained in all prior paragraphs of this
9 complaint.

10 36. Because the defendants violated the plaintiff's rights under the ADA,
11 they also violated the Unruh Civil Rights Act and are liable for damages. (Cal.
12 Civ. Code § 51(f), 52(a).)

13 37. Because the violation of the Unruh Civil Rights Act resulted in difficulty,
14 discomfort or embarrassment for the plaintiff, the defendants are also each
15 responsible for statutory damages, i.e., a civil penalty. (Cal. Civ. Code §
16 55.56(a)-(c).)

17
18 **PRAYER:**

19 Wherefore, Plaintiff prays that this Court award damages and provide
20 relief as follows:

21 1. For injunctive relief, compelling Defendants to comply with the
22 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
23 plaintiff is not invoking section 55 of the California Civil Code and is not
24 seeking injunctive relief under the Disabled Persons Act at all.

25 2. Damages under the Unruh Civil Rights Act, which provides for actual
26 damages and a statutory minimum of \$4,000.

1 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
2 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

3
4 Dated: March 30, 2017

CENTER FOR DISABILITY ACCESS

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6 By: 
7 Russell Handy, Esq.
8 Attorneys for plaintiff
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